



Provincial Railway Guides

Section:

ADMINISTRATION

Subject:

EXEMPTION OF RAILWAYS

It is against the law to operate a provincial railway in Saskatchewan without an operating authorization or exemption certificate.

INTRODUCTION:

The Railway Act regulates the construction and operation of all provincially regulated railways (i.e. those railways not holding a Federal Certificate of Fitness). The Act applies to all provincial railways from major common carriers to small businesses with a rail spur utilized sporadically, unless the railway is exempted from the Act.

The authority to exempt railways from all or a portion of *The Railway Act* is found in section 3.1(1) of the Act, which allows the Minister to exempt all or any part of a railway or class of railways from all or any part of the Act on any terms or conditions the Minister wishes. This allows the Minister to relieve a railway from the requirements of complying with portions of the Act that are not relevant to its operations. The Minister is required by the Act (section 3.1(2)) to publish exemptions in the Saskatchewan Gazette.

These guides are intended to clarify the conditions under which a provincial railway may be exempted from all or part of *The Railway Act*. The Minister may grant exemptions either upon application by the railway or based upon classification.

EXISTING RAILWAYS:

All railway operations in the province of Saskatchewan must possess one of:

- A federal Certificate of Fitness
- An authority in accordance with *The Railway Act*
- An exemption from *The Railway Act* granted by the Minister

Existing railway operations, as defined by the Act must apply for authority or an exemption.

EXEMPTIONS:

Complete Exemptions:

Railways exempted from *The Railway Act* in accordance with these guides are exempt from all responsibilities as an owner and/or operator under all portions of *The Railway Act* and associated regulations, guides and standards.

Railways exempted from *The Railway Act* by the Minister in accordance with these guides or upon recommendation of the Railway Inspector, will be classified as Exempted Railways and issued a Certificate of Exemption by the province.



Provincial Railway Guides

Section:

ADMINISTRATION

Subject:

EXEMPTION OF RAILWAYS

Railways are not eligible for complete exemption from *The Railway Act* if:

1. the railway has road crossings used by the public, or
2. passengers are transported on the railway, or
3. there is reasonable expectation that the track would be purchased by local government or producers to be used for the loading of agricultural produce should the owner decide to dismantle the tracks.

Partial Exemptions:

Railways exempted from portions, but not all of *The Railway Act* in accordance with these guides will have the specific exemptions listed on their Authorization Certificate and/or Operating Authority Certificate as appropriate.

APPLICATIONS:

Railways not exempted by class must apply for an exemption.

Where to Apply:

Submit application to: Rail Services

900 - 1855 Victoria Avenue

Regina, Saskatchewan S4P 3T2

Fax: (306) 787-3963

ezsombor@highways.gov.sk.ca

Form of Application:

There is no standard form to apply to the Minister for an exemption. New railways should either request an exemption in conjunction with their application for authority to open or operate a railway. Railways already authorized under *The Railway Act*, should fax or mail a signed letter addressed to the Minister stating their wish to be exempted from all or part of the Act. The application should include the following:

Railways may also apply by submitting the following information in a letter to the department:

1. Exemption(s) requested; specific clause(s) or the entire Act
2. Reason(s) for requesting exemption(s)
3. Classification of railway
4. Number of grade crossings and if the general public uses the crossings.
5. Types of commodities handled on railway (note any dangerous goods)
6. If passengers are carried.
7. Track Speeds
8. Customers List



Provincial Railway Guides

Section:

ADMINISTRATION

Subject:

EXEMPTION OF RAILWAYS

INSPECTIONS:

The provincial rail inspector(s) may investigate a railway applying for exemption to assure that there is no misunderstanding regarding the operations or infrastructure.

Railways that have been fully exempted may be inspected if complaints or concerns are brought to the Minister that may result in a recant of the exemption.

CERTIFICATE OF EXEMPTION:

Exemption from *The Railway Act* or portions thereof is done through a Certificate of Exemption from the Minister and notice is published in the Saskatchewan Gazette. A certificate may be altered or revoked by the Minister at any time.

AUTOMATIC EXEMPTIONS BY CLASS

See also: PRG 1011 - *Classification of Railways*

Common Carriers are subject to all provisions of *The Railway Act* and associated regulations, guides and standards.

Private Industrial railways are exempt or are normally eligible for exemption from the following parts and regulations of *The Railway Act*:

- a) Section 17 - Exclusive Rights Not Granted
- b) Section 36 - Rates
- c) Section 37 - Joint Tariff
- d) Section 38 - Contracts limiting liability
- e) Section 39 - Obligations as carrier
- f) Section 39.1 - Confidential contracts
- g) Section 40 - Final offer arbitration

Note: if a private industrial railway is also a shipper on a provincial railway, it retains all its rights as a shipper under *The Railway Act*.

Public Industrial railways are exempt or are normally eligible for exemption from the following parts and regulations of *The Railway Act*:

- a) Section 36 - Rates
- b) Section 37 - Joint Tariff
- c) Section 38 - Contracts limiting liability
- d) Section 39 - Obligations as carrier
- e) Section 39.1 - Confidential contracts
- f) Section 40 - Final offer arbitration



Provincial Railway Guides

Section:

ADMINISTRATION

Subject:

EXEMPTION OF RAILWAYS

Passenger railways are exempt or are normally eligible for exemption from the following parts and regulations of *The Railway Act*:

- a) Section 17 - Exclusive Rights Not Granted

Amusement railways are exempt or are normally eligible for exemption from the following parts and regulations of *The Railway Act*:

- a) Section 17 - Exclusive rights not granted
- b) Section 22 - Discontinuance of service
- c) Section 22.1 - Dismantling of railway
- d) Section 22.2 - Sale to government
- e) Section 36 - Rates
- f) Section 37 - Joint Tariff
- g) Section 38 - Contracts limiting liability
- h) Section 39 - Obligations as carrier
- i) Section 39.1 - Confidential contracts
- j) Section 40 - Final offer arbitration
- k) Section 41 - Expropriation
- l) Section 42 - Appropriation of land
- m) Section 43 - Snow fences, etc.

DISPUTES:

In case of a disputes with a decision to exempt or not exempt a railway, the applicant can re-apply if they feel there is new or additional information that could reasonably be expected to affect the Minister's decision

CONTACTS:

For more information: Rail Services
900 - 1855 Victoria Avenue
Regina, Saskatchewan S4P 3T2
Phone: (306) 787-5847
Fax: (306) 787-3963
ezsombor@highways.gov.sk.ca